IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 541 of 2005

Between:

1 G. Venkata Ramanjaneya Gupta, S/O. VENKATA SUBRAHMANYAM,
Salam Centre Cillage, Chirala, Parakasam District.
2 Smt. T. M. Begum, W/o. Abdul Pale,
Salman Centre Village, Chirala, Prakasam District.

..... PETITIONER(S)

AND

1 The District Collector (Civil Supplies), Prakasam District, Ongole.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The mandal Revenue Officer, Chirala Mandal, Chirala, Prakasam District.
4 The Joint Collector, Civil Supplies, Prakasam District, Ongole.

.....RESPONDENT(S)

Petition filed under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the Respondents in proceeding with the bifurcation of Fair Price Shops, Solman Centre (Devangapuri), Chirla Mandal, Prakasam District by virtue of Rc.C.1913/2004, dt. 30.12.2004 addressed by the 2nd respondent to the 1st respondent without giving any notice or opportunity to the petitioners herein as illegal, arbitrary, null and void and violative of Arts. 14, 19 (1) (g) of the Constitution of India and the principles of natural justice and pass such other order or orders.

Counsel for the Petitioner:MR.A.SREEDHAR

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

The petitioners are dealers of two fair price shops of Solman Centre Village, Chirla Mandal, Prakasam District. They feel aggrieved by the proceedings dated 30-12-2004, issued by the 1st respondent, carving out a new fair price shop, by allotting certain cards to the shops of the petitioners. Petitioners contend that the creation of a new fair price shop, by allotting substantial number of cards from the shops held by the petitioners, was not preceded by an enquiry and that it was resorted to, under political pressure. They contend that the pink cards have become virtually dis-functional, and the left over white cards, with them, are far below the minimum stipulated, under the memo dated 22-01-1999, issued by the Government. By urging these and other grounds, they seek the relief of setting aside the impugned order.

Heard the learned counsel for the petitioners and learned Government Pleader for Civil Supplies.

The petitioners challenge division of their shops and carving out of a 3rd shop from the existing two fair price shops. Time and again, the Supreme Court as well as this Court held that it is the prerogative of the State to evolve methods for proper and effective distribution of essential commodities, and that no individual can assert any fundamental right, in the matter of distribution of essential commodities. In the context of bifurcation of existing shops, the Courts held that the allegations of non-viability, even if true, cannot constitute a ground for interference.

The Government issued memo dated 22-01-1999, stipulating the guidelines, in the

matter of establishing new fair price shops, or bifurcating the existing shops. One of the salient features of this memo is to the following effect:

> "…To obviate this unhealthy trend, the following additional guidelines are issued.
>
> i. In rural areas no new F.P. Shop should be sanctioned, if the number of cards to be attached to the fair price shop is less than 350.
>
> ii. In urban areas no new F.P. Shop shall be sanctioned, if the number of cards to be attached to the shop is less than 500.
>
> iii. In city areas no new F.P. Shop shall be sanctioned, if the number of cards to be attached to the shop is less than 800.
>
> If, for special reasons like dissidence or faction in a village or certain social tensions between one community and another due to caste or religious conflicts, the Collectors may, if they are fully satisfied for splitting the shops, for the benefit of the community, may do so giving reasons for such sanction of new shops.
>
> Similarly, where the total number of cards in a village is less than 350, a shop may be continued/sanctioned. Attaching of cards of one village to a shop in another village should be avoided.
>
> The above guidelines shall apply even to the existing Fair Price Shops. The District Collectors and Chief Rationing Officer, Hyderabad, are requested to review the position and re-organise the Fair Price Shops wherever necessary."

The only exception to this is, where necessity arises on account of dissidence or faction in a village. In such cases, the District Collector is required to record reasons, for establishing shops, with less than the stipulated number of cards.

In the instant case, the petitioners were distributing commodities to 759 and 658 cardholders respectively. Through the impugned proceedings, a new shop is proposed to be established. As a result, the number of cards for the 3 shops would be as under:

1st petitioner 519

2nd petitioner 448, and

proposed shop 460.

These figures indicate compliance with the memo dated
22-01-1999.

The grievance of the petitioners is that, at present essential commodities are released only for distribution to the white cardholders, and hardly any commodities

are allotted to the pink cardholders. As a result of the impugned order, they are left with the white colour cards numbering 354 and 358, respectively, and they contend that their shops would be totally unviable. The white cards allotted to the proposed new shop are 300 and those left with first petitioner are 312. If no commodities are allotted to the pink cardholders, the grievance of the petitioners appears to be genuine. It is represented that though a new shop was created through the impugned order, no dealer, as such was appointed so far, and that remedial measures can be taken even at this stage. In this regard, the petitioners have to make appropriate representations.

Hence, the writ petition is disposed of, leaving it open to the petitioners to make a representation to the 1st respondent, as regards the non-vilability of their shops, as a consequence of the impugned order. On receipt of the same, the 1st respondent shall verify the fact as to whether any essential commodities are being distributed for the holders of pink cards, and whether the shops of the petitioners as well as the proposed shop would be financially viable, in terms of memo dated 22.1.1999, and take appropriate measures, depending on his conclusions on these aspects, within three weeks thereafter. There shall be no order as to costs.

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L. NARASIMHA REDDY, J.

Dt.24-01-2005

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To

1 The District Collector (Civil Supplies), Prakasam District, Ongole.
2 The Revenue Divisional Officer, Ongole, Prakasam District.
3 The Mandal Revenue Officer, Chirala Mandal, Chirala, Prakasam District.
4 The Joint Collector, Civil Supplies, Prakasam District, Ongole.

5. 2CCs to G.P. for Civil Supplies, High Court of A.P., High Court Buildings, Hyderabad (OUT).

6. 2CD copies.